

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN**

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

MFA.No. 8 of 2001(A)

OP.1082/1995 of MACT, THODUPUZZHA

APPELLANT/PETITIONER:

**RAVINDRAN,S/O.SANKARAN,AGED 42 YEARS,
EDAPPARAM - BATH HOUSE, 200 ACRE KARA,
MANNAMKANDOM VILLAGE, DEVIKULAM TALUK.**

**BY ADV. SRI.C.K.VIDYASAGAR
SRI.G.CHANDY JOSEPH**

RESPONDENTS/RESPONDENTS:

1.P.V.LUKOSE, PALAVATH HOUSE, PANIKKANKUDY KARA.

**2.CHERIAN ALIAS SCARIACHAN,S/O.MICHAEL,
VAZHEPARAMBIL HOUSE, KALLARKUTTY KARA,
VELLATHOOVAL VILLAGE.**

3.ORIENTAL INSURANCE CO. LTD., KOTHAMANGALAM.

**BY ADV. SRI.M.JACOB MURICKAN FOR R3
SMT.R.RAJASREE**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.8 OF 2001 (A)

Dated this the 4th day of July, 2007

J U D G M E N T

KOSHY,J.

Appellant claimant met with an accident at the age of 42. He claimed compensation of Rs.2,00,000/-. Compensation awarded by the Tribunal was only Rs.63,750/-. Tribunal found that accident occurred due to the negligence of the driver of the vehicle insured by the 3rd respondent. Only dispute is regarding the quantum of compensation. Even though it was claimed by the claimant that he was running the grocery shop and his monthly income was Rs.5,000/- tribunal has taken only Rs.2,500/- in the absence of proof that he was getting Rs.5,000/- from his business. We see no ground to increase the monthly income assessed by the Tribunal. Ext.A6 is the disability certificate. Injuries are referred in Exts.A5, A10 and A11 medical certificates. Injuries suffered by him are as follows:

1. Contused laceration occipital region 2 x 1 cm. in size.
2. Abrasion with contusion on right side of fore head.
3. Abrasion right knee joint 2 x 2 cm.
4. Bifrontal hemorrhagic contusion of the brain parenchyma.

A competent Doctor has certified that he had suffered 15% disability. Tribunal has also found that 15% disability is permanent. Even though tribunal has stated that he was likely to live 25 years more, compensation was not awarded on a multiplier method. So a sum of Rs.20,000/- was awarded for disability, loss of earning power, loss of discomforts etc. In a three member bench of the Supreme Court in **Smt.Supe Dei and others v. M/s.National Insurance Company Ltd. and another (JT 2002 (Suppl.1) SC 451)**, held that the second schedule of the Motor Vehicles Act is framed for the purpose of awarding compensation under Section 163-A, but it serves as a guideline for determination of compensation under Section 166 of the Motor Vehicles Act. Considering his age as 42 the multiplier will be 15. Therefore compensation payable will be $\text{Rs.}2,500 \times 12 \times \frac{15}{100} \times 15 = \text{Rs.}67,500/-$. Tribunal has awarded

only Rs.20,000/-. Therefore claimant will be entitled to an additional amount of Rs.47,500/-. Even though it was contended that due to the injury on the brain, he is unable to do anything (claiming compensation for 100% disability) and he needs continuous treatment and compensation given under all other heads are very meager, we are of the opinion that no enhancement is needed on other grounds and the above additional amount of Rs.47,500/- should be deposited by the Insurance company over and above the decreed amount by the tribunal with 7% interest from the date of application till deposit and on deposit appellant is entitled to withdraw the same. With the above observations this appeal is partly allowed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.8 OF 2001 ()

J U D G M E N T

4th July, 2007